

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4121-08
BILL NO.: HCS for HB 1747
SUBJECT: Health Care; Hospitals; Medical Procedures
TYPE: Original
DATE: March 15, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$979,210)	(\$1,148,983)	(\$1,178,091)
Insurance Dedicated	\$15,050	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$964,160)	(\$1,148,983)	(\$1,178,091)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Federal	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0

***Revenues and expenditures of less than \$100,000 annually are expected and net to \$0.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Conservation**, the **Department of Economic Development - Division of Professional Registration**, and the **Department of Public Safety - Missouri State Highway Patrol** assume this proposal would not fiscally impact their agencies.

Department of Health (DOH) officials state that DOH must be notified of complaints made by employees against hospitals and ambulatory surgical centers (ASC's). DOH assumes this is to be by correspondence. There would also be a follow-up report requirement for DOH regarding data submitted from each hospital and ASC. DOH estimates there would be as much as 300 complaints per year and would require at least four (4) FTE total; one Health Program Representative III and one Clerk Typist II to collect, file and prepare a report as required, one Health Facility Consultant I and one Health Facility Nursing Consultant would investigate the complaints that are not appropriately investigated by the facility or need further investigation. DOH states they would review corporate compliance programs to determine they meet requirements of this proposal. This would require two FTE total; Health Program Representative III to review submitted compliance programs and a Clerk Typist II to file and submit letters of approval or correction. DOH states they would provide a training course to train unlicensed staff to meet minimum competency requirements in hospitals and ASCs. Hospitals and ASCs would submit to DOH the training program used to train unlicensed patient care staff. The training course would be prepared in collaboration with the DOH and the TAC. By 12/31/00 DOH would obtain information on the methodology that each hospital and ASC uses to assure adequate licensed registered nurses to supervise sufficient licensed and ancillary nursing personnel to meet the needs of the patients in accordance with accepted standards of nursing practice. DOH would provide technical support for a "Technical Advisory Committee (TAC) on the Quality of Patient Care and Nursing Practices" to develop specific recommendations to improve patient care and insure licensed nurses function knowledgeably and professionally in hospitals and ASCs. The TAC would receive other tasks from the legislature or based on its own direction. The performance of all these duties would require at least four (4) FTE in addition to the two DOH employees who are members of the nine-member TAC. The Health Program Representative III would review plans and collect data, plus provide support for the TAC. The Health Facility Nursing Consultant would assist the TAC plus assess plans for patient care by licensed and ancillary nursing staff and other general functions required by this proposal. The Clerk Typist II and a Clerk Stenographer II would support the DOH staff in the new functions and the TAC. The Clerk-Steno II would specifically provide minutes for the TAC plus other clerical duties. The TAC would meet once per month for a two-day session. The new FTE would assist the TAC in required report preparation to the Governor and the Legislature. DOH would review each medical facility's blood-borne pathogen exposure control plan and an annual

ASSUMPTION (continued)

update. DOH would review medical facility's policies for needlestick injuries in accordance with OSHA standards. DOH estimates there are approximately 6,400 medical facilities. To carry the review functions would require six (6) FTE to perform the review of the plans. These would include two (2) Health Facility Nursing Consultants and four (4) Health Program Representative III's.

Department of Insurance (INS) officials state that they anticipate that current appropriations and staff would be able to absorb the work for implementation of this proposal. However, if additional proposals are approved during the legislative session, INS may need to request an increase in appropriations due to the combined effect of multiple proposals.

INS states there are 259 health insurers and 30 HMOs that offer health insurance coverage. INS states that of the health insurers, many offer coverage through out-of-state trusts which are not typically subject to such mandates. INS estimates that 171 health insurers and 30 HMOs would each submit one policy form amendment resulting in revenues of \$10,050 to the Insurance Dedicated Fund. INS estimates there would be approximately 100 property and casualty insurers that write some type of medical insurance coverage that would be affected by this proposal ($100 \times \$50 = \$5,000$). INS estimates a total increase in revenue as a result of this proposal would be \$15,050.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state that part of this proposal would require insurers, health maintenance organizations, domestic health services corporations, and the medical assistance program coverage for devices for needlestick safety. HCP feels the fiscal impact of this proposal would be very minimal.

Department of Social Services - Division of Aging (DOA) officials anticipate there would be no fiscal impact for the DOA - Home and Community Services as this proposal does not pertain to programs or services offered by Home and Community Services.

DOA - Institutional Services (IS) state the majority of costs related to this proposal would be estimated by the Department of Health. IS states the Department of Health is specified as the state agency responsible for collecting and reviewing the blood-borne pathogen exposure control plan on an annual basis and reporting back to the General Assembly and Governor. IS believes the review of policies and procedures related to the use of the blood-borne pathogen exposure control plan and its' compliance to the standards promulgated by the federal Occupational Safety and Health Administration (OSHA) can be added to the annual state licensure inspection and/or federal survey process(es). IS states that currently this authority is in the Health Care Financing Administration's (HCFA) Interpretive Guidelines that allow the state survey agencies to cite a

ASSUMPTION (continued)

facility but only if a problem is found. HCFA and OSHA have not been requiring state survey agencies to specifically determine compliance with OSHA's standards. OSHA has indicated state agencies should refer to OSHA issues to be investigated under their standards. Therefore, if this proposal establishes the OSHA standards as a state licensing requirement IS anticipates on average an additional six hours of inspection time per facility. IS states the additional time would be spent informing facilities of the new needle safety technology requirement, reviewing policies and procedures, determining facility compliance with their established policies, investigating any concerns, and if necessary, determining the scope and severity of problems discovered at the facility, writing deficiencies, and following-up on facility corrective action. IS would need an additional two (2) Facility Advisory Nurse II positions to ensure adequate staff to complete this additional inspection process (570 facilities x 6 hours additional inspection time = 3,420 hours / 1,840 hours per FTE). The positions would be located one each in the Kansas City and St. Louis regional offices. IS assumes that FY2001 costs would be based on the three month period from April 1 through June 30, 2001. FY2002 and FY 2003 costs include a three percent inflation adjustment for expense and equipment and a two and one-half percent adjustment for personal services.

Officials from the **Department of Transportation (DHT)** state that HCP said that the needle sticks safety devices are containers that needles are discarded in after used to keep anyone from coming into contact with the needle again. These are normally seen as part of the building since they are normally attached to the wall. However, if the Medical Plan would be required to pay for these devices HCP stated that the impact would be minimal if anything at all. Therefore, DHT assumes that this proposal would have minimal to no impact to DHT and the Medical Plan.

Cooper County Memorial Hospital officials state that depending upon the how this proposal would be interpreted the financial impact could reach values of greater than \$100,000.

Officials from the **University of Missouri Hospitals and Clinics, Barton County Memorial Hospital, Cass Medical Center, Excelsior Springs Medical Center, Lincoln County Memorial Hospital, Pemiscot Memorial Hospital, Phelps County Regional Medical Center, Ray County Memorial Hospital, Samaritan Memorial Hospital, and Ste. Genevieve County Memorial Hospital** did not respond to our fiscal impact request.

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<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

Costs - Department of Health

Personal services (16 FTE)	(\$540,911)	(\$665,587)	(\$682,227)
Fringe benefits	(\$166,330)	(\$204,668)	(\$209,785)
Expense and equipment	<u>(\$249,048)</u>	<u>(\$216,709)</u>	<u>(\$222,466)</u>
Total <u>Costs</u> - Department of Health	<u>(\$956,289)</u>	<u>(\$1,086,964)</u>	<u>(\$1,114,478)</u>

Costs - Department of Social Services -
Division of Aging

Personal services (.92 FTE)	(\$9,969)	(\$40,873)	(\$41,895)
Fringe benefits	(\$3,065)	(\$12,568)	(\$12,883)
Expense and equipment	<u>(\$9,887)</u>	<u>(\$8,578)</u>	<u>(\$8,835)</u>
Total <u>Costs</u> - DOS - Division of Aging	<u>(\$22,921)</u>	<u>(\$62,019)</u>	<u>(\$63,613)</u>

**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND**

<u>(\$979,210)</u>	<u>(\$1,148,983)</u>	<u>(\$1,178,091)</u>
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INSURANCE DEDICATED FUND

Income - Department of Insurance

Filing fees	<u>\$15,050</u>	<u>\$0</u>	<u>\$0</u>
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**ESTIMATED NET EFFECT ON
INSURANCE DEDICATED FUND**

<u>\$15,050</u>	<u>\$0</u>	<u>\$0</u>
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FEDERAL FUNDS

Income - Department of Social Services-
Division of Aging

Medicaid reimbursements	\$25,189	\$71,314	\$73,140
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<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Costs - Department of Social Services - Division of Aging</u>			
Personal services (1.08 FTE)	(\$11,703)	(\$47,982)	(\$49,182)
Fringe benefits	(\$3,599)	(\$14,754)	(\$15,123)
Expense and equipment	(\$9,887)	(\$8,578)	(\$8,835)
Total <u>Costs</u> - DOS - Division of Aging	(\$25,189)	(\$71,314)	(\$73,140)

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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LOCAL POLITICAL SUBDIVISIONS

<u>Costs - Local Political Subdivisions</u>			
Program specific expenses*	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS*	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
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***Expected to exceed \$100,000.**

FISCAL IMPACT - Small Business

Small hospitals may be fiscally impacted to the extent they would incur additional administrative costs as a result of the requirements of this proposal.

DESCRIPTION

This proposal would provide "whistleblower" protections by requiring hospitals and ambulatory surgical centers licensed by the Department of Health to implement a written policy regarding employees who report facility mismanagement; fraudulent activity; and violations of applicable laws or administrative rules concerning patient care, safety, and related issues. In its primary whistleblower protection provisions, the proposal would: (1) Specify that supervisors and

DESCRIPTION (continued)

persons in authority at hospitals or ambulatory surgical centers may not prohibit employees from disclosing information pertaining to facility mismanagement, patient safety, or related issues; (2) Prohibit these supervisors and persons in authority from threatening to use their authority to knowingly discriminate, penalize, or retaliate against employees who acted in good faith to report or disclose mismanagement or other violations; (3) Require hospitals and ambulatory surgical centers to establish a corporate compliance program for the reporting of claims of mismanagement; fraudulent activity; and violations of applicable laws or administrative rules concerning patient care, safety, or related issues and requires the department to verify that the programs adopted meet the standards established by the federal Department of Health and Human Services; (4) Require designation of a specific person and an alternate person for administering the reporting and investigation process and provides employees with the option of reporting anonymously; (5) Require hospitals and ambulatory surgical centers to notify the department when an investigation is initiated and, within 48 hours of receiving a report, to notify the complaining employee that his or her complaint is being reviewed; (6) Require investigations of reports to be completed within 30 days, with notification to the employee and to the department of the investigation's findings; and (7) Authorize an award of damages, court costs, and attorney fees in a civil action against hospitals and ambulatory surgical centers which do not comply with the whistleblowing provisions of the proposal.

The whistleblowing provisions of the proposal would be effective January 1, 2001.

The proposal also contains provisions related to staffing, needlestick injury prevention, and hospital licensure, which would: (1) Prohibit hospitals and ambulatory surgical centers from assigning personnel who lack appropriate training and education to provide patient care; (2) Require hospitals and ambulatory surgical centers to establish by July 1, 2001, a training program for all unlicensed staff who provide patient care, provide documentation of the completion of such staff training to the department, and implement a methodology to ensure adequate staffing levels of licensed registered nurses and ancillary nursing personnel in accordance with accepted standards of nursing practice to meet patient needs; (3) Establish a 9-member "Technical Advisory Committee on the Quality of Patient Care and Nursing Practices" within the Department of Health. Each year the committee would select one issue and develop recommendations related to improving the quality of patient care or nursing practices, and submit an annual report to the Governor and the General Assembly on its recommendations, beginning in 2001. The initial issue to be considered would be the appropriate licensed nurse staffing levels within hospitals and ambulatory surgical centers. The committee would terminate on December 31, 2006; (4) Require the department to collaborate with the Technical Advisory Committee to develop recommendations for standardized minimal training requirements for unlicensed staff,

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DESCRIPTION (continued)

and on the use of needlestick safety technology; (5) Require medical facilities, as defined in the proposal, to complete a blood-borne pathogen exposure control plan related to needle safety by December 31, 2001, with annual updates; (6) Require medical facilities by December 31, 2002, to adopt needle safety technology; (7) Require entities offering individual or group health insurance policies to offer coverage for needlestick safety devices. This provision applies to policies or contracts of coverage issued or renewed on or after January 1, 2001; (8) Require the department to annually determine the number of hospitals and ambulatory surgical centers with a corporate compliance plan and the number of medical facilities with a needlestick injury prevention program; (9) Specify intermediate sanctions the department may impose for violations of hospital and ambulatory surgical center licensure requirements, in addition to hospital closure which is currently available to the department. Appeal rights for the facilities are outlined; and (10) Authorize the department to develop regulations in order to implement the proposal's provisions.

This legislation is not federally mandated, would not duplicate any other program and would require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Health
Department of Social Services
Missouri Consolidated Health Care Plan
Department of Transportation
Department of Public Safety
Missouri State Highway Patrol
Department of Conservation
Department of Insurance
Department of Economic Development
Division of Professional Registration
Cooper County Memorial Hospital

NOT RESPONDING: University of Missouri Hospitals and Clinics, Barton County Memorial Hospital, Cass Medical Center, Excelsior Springs Medical Center, Lincoln County Memorial Hospital, Pemiscot Memorial Hospital, Phelps County Regional Medical Center, Ray County Memorial Hospital, Samaritan Memorial Hospital, Ste. Genevieve County Memorial Hospital



Jeanne Jarrett, CPA
Director
March 15, 2000